

REMARKS

Entry of the foregoing amendments and favorable reconsideration of the subject application in the light thereof, and in the light of the following remarks, are respectfully requested.

By the present amendment, non-elected claims 40-58 have been cancelled without prejudice or disclaimer. As a result, claims 37-39 are the remaining claims of record. It is submitted that the present application should now be in condition for allowance once the Terminal Disclaimers, submitted herewith are considered.

Turning now to the Office Action, the Examiner initially required a restriction between five groups of claims. The first group was claims 37-39 and groups II-V encompassed remaining claims 40-58. The Examiner withdrew claims 40-58 due to a constructive election by original presentation for prosecution on the merits of claims 37-39. The Applicants acknowledge this constructive election, and thereby cancel withdrawn claims 40-58 without prejudice regarding Applicants right to file a Divisional Application thereto. As a result of this cancellation of claims 40-58, claims 37-39 remain the only claims of record.

In the rejection of record, the sole rejection is a non-statutory double patenting rejection based on the judicially created doctrine over U.S. Patent nos. 6,311,231 and 5,884,032. A timely filed Terminal Disclaimer may be used to overcome such a rejection.

Accordingly, submitted herewith are appropriate Terminal Disclaimers signed by a registered Attorney of Record. It is submitted that in light of the Terminal Disclaimers, the non-statutory double patenting rejection has been overcome.

Favorable reconsideration and withdrawal of the Examiner's double patenting rejection in light of the submitted Terminal Disclaimers are therefore respectfully requested.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited.

Respectfully submitted,

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